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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,246	11/14/2003	Krishnan Chari	85502KNM	1191
7590 12/18/2006 Paul A. Leipold Eastman Kodak Company Patent Legal Staff 343 State Street Rochester, NY 14650-2201			EXAMINER NAGUBANDI, LALITHA	
			ART UNIT 1621	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	12/18/2006	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.		Applicant(s)	
	10/713,246		CHARI ET AL.	
	Examiner		Art Unit	
	Lalitha Nagubandi		1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

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Detailed Office Action

Status of Claims

Claims 32-34 are pending. Claims 32-34 are considered for examination in this office action.

Election/Restriction

Applicant's election of Group III (claims 32-34), in reply to the telephonic interview with Ms. Lynne M. Blank, on September 19th 2006 without traverse is acknowledged. Claims 1-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim and hence the restriction is made **FINAL**.

Specification

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicant may become aware of in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

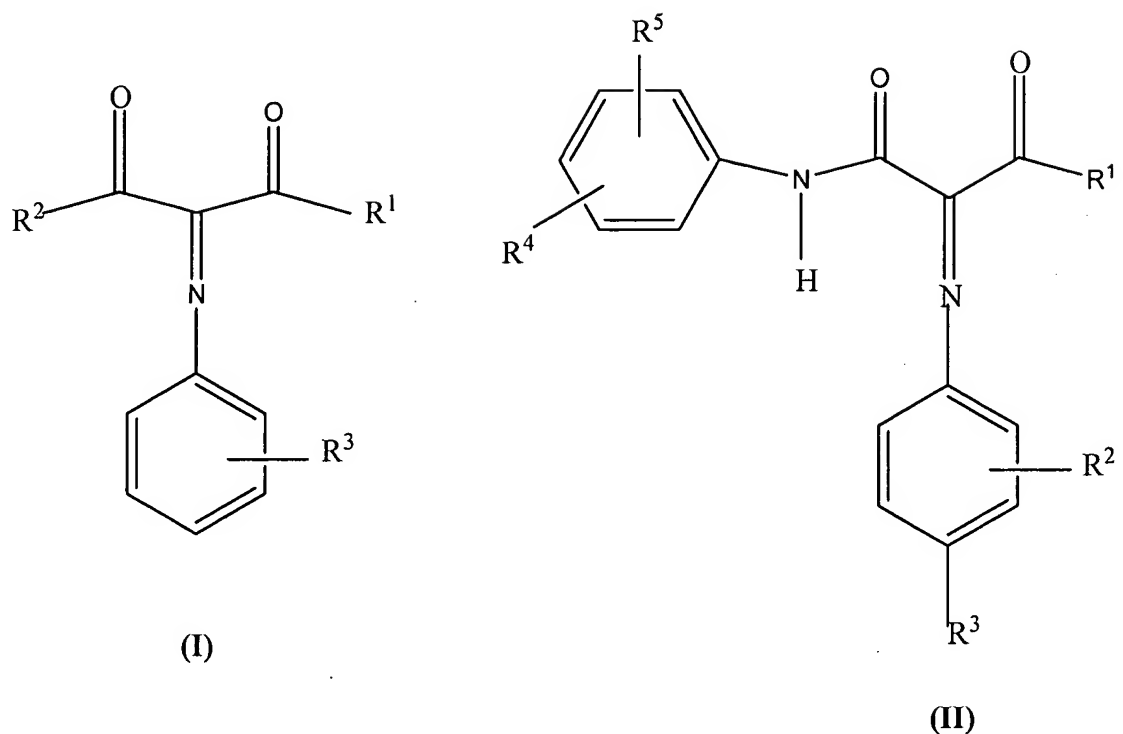
The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herkstroeter et al (Journal of American Chemical Society 97, (11) May 28th 1975) and Jones et al (US Patent No. 6,489,511 B1 dated Dec. 3, 2002) over Chandler et al (US Patent No. 6,599,331 B2 dated July 29th 2003).

Applicants' claim a microsphere for making an array, the microsphere comprising a capsule containing a dye represented by formula (I) and formula (II).

**Determination of Scope and content of the Prior Art (MPEP§2141.01)**

Herkstroeter et al (Journal of American Chemical Society 97, (11) May 28th 1975) teach azomethine dyes of formula (I) (See figure 9, page 3093) and azomethine dyes of formula (II) by Jones et al (See column 5, compounds D7 –D9, US Patent No. 6,489,511 B1 dated Dec 3rd, 2002.

Further, Chandler et al (US Patent no. 6,599,331 B2 dated July 29th 2003) teach microspheres containing dyes (Please See all the claims).

Ascertainment of the difference between the Prior Art and Claims (MPEP §2141.02)

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The difference between the instant application and Herkstroeter ET al/Jones et al is in the instant application, the microsphere comprising a capsule containing a dye represented by formula (I) and (II) are embodied. Herkstroeter and Jones are silent about the microsphere.

The difference between the instant application and Chandler et al is, the instant application discloses the microspheres containing dyes of formula (I) and formula (II), whereas Chandler et al is silent about the specific azomethine dyes.

Finding of prima facie obviousness – rational and motivation (MPEP § 2143)

It would have been obvious to one of ordinary skill in the art to combine and modify the methods cited above at the time of invention, and the ordinary artisan would have had a reasonable expectation of success of introducing azomethine dyes into capsule to make microsphere.

Accordingly, one would have been motivated to make the microspheres containing a wide range of dyes, which may include azomethine dyes, based on the prior art available at the time, that the instant invention was made.

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalitha Nagubandi whose telephone number is 571 272 7996. The examiner can normally be reached on 6.30am to 3.30pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571 272 0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lalitha Nagubandi
Patent Examiner
Technology Center 1600

December 4th 2006


Samuel A Barts, Ph.D.
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